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2007 APR 10 P 12:41  
 IN THE UNITED STATES DISTRICT COURT FOR  
 THE MIDDLE DISTRICT OF ALABAMA

ALONZO AUSTIN, Executor, for  
 RUTH H. LEWIS, Estate.  
 Plaintiff(s)

VS.

CIVIL ACTION NO.  
 3:07-CV-138-MHT-WC  
 MODERN WOODMEN OF AMERICA  
 et.al,  
 Defendant(s)

Motion for Summary Judgment by Plaintiff(s), in  
 response to, Motion to DISMISS by Defendant(s)

Plaintiff(s) pursuant to RULE 56, of the Federal Rules  
 of Civil Procedure, Moves the Court to enter  
 Summary Judgment for the Plaintiff(s) on the grounds  
 that there is no genuine issue as to any Material Fact,  
 and the Plaintiff(s) is entitled to judgment as a matter of Law.  
 IN support of this motion Plaintiff(s) refers to the record  
 in the action, including the Complaint, the answer  
 to it and Plaintiff(s) attached affidavit and exhibits.  
 "A" and "B"

Alonzo Austin  
 by Alonzo Austin

ALONZO AUSTIN

1321 Oliver - Carllis Rd.

Tuskegee, AL. 36083

Ph#(334) 727-5476

IN THE UNITED STATE DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA

ALONZO AUSTIN, Executor, for }  
RUTH H. LEWIS, estate }  
Plaintiff(s) }

VS.

MODERN WOODMEN OF AMERICA }  
et. al, }

Defendant(s)

CIVIL ACTION NO

3:07-CV-138-MHT-WC

DEBRA R. JACETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

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Affidavit in Support of Motion for Summary Judgment.

STATE OF ALABAMA } ss.  
COUNTY OF MACON }

ALONZO AUSTIN, who, being first duly sworn  
deposes and says:

1. I am ALONZO AUSTIN, and have personal knowledge of the facts set forth.

This Affidavit is submitted in support of the Plaintiff(s) Motion for Summary Judgment for the purpose of showing that there is in this action no genuine issue as to any material fact, and that the

Plaintiff(s) is entitled to judgment as a matter of Law

As issue is Constitutional in Nature ..

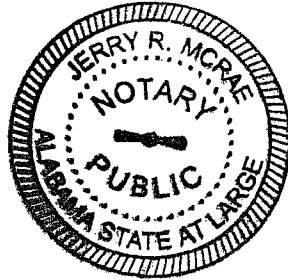
1 OF 2

2. Plaintiff(s) submitted a copy of MS. RUTH H. LEWIS, DURABLE GENERAL POWER OF ATTORNEY to Ms. Linda Peoples, on or near the 4th day of March 1993, as verified by Ms. Peoples to John P. Wilson, CEO, Auburn Branch, of Defendant Bank, SOUTHTRUST, and now after Merger WACHOVIA BANK. See attached documents as exhibit "A" and "A" (2 of 2) 2nd page also see attached exhibit "B" which was also exhibited in Plaintiff(s), Motion For Summary Judgment in Response to ATTORNEY ALLAN NATHANSON, Motion to Dismiss. document (Speaks for itself.)

IN CONCLUSION, THE DEFENDANTS WACHOVIA BANK joined Juanita K. Upshaw, ATTORNEY ALLAN NATHANSON, ATTORNEY FRED GRAY SR. ATTORNEY DEBORAH HILL BIGGERS, Dr. Robert Storey, INSURANCE AGENT, GEORGE CLAY PROBATE JUDGE, ALFONZA MENEFFEE, JUDGE: HOWARD F. BRYAN CIRCUIT COURT OF MACON COUNTY ALABAMA, TUSKEGEE'S CITY POLICE MACON COUNTY SHERIFF, ALABAMA EXCHANGE BANK, President, ROBERT DAVIS. et al. In this Unlawful Scheme Acting under color of STATE Law in Depriving Plaintiff(s) of their CONSTITUTIONAL RIGHT UNDER THE Federal Mandates and Statutes. 42 USC § 1983  
by ALAN. D. [unclear] [unclear]

2 of 2

*Notary*  
Jerry R. McRae, Notary  
Com. Expires 2-28-09



Alonzo Austin, Prose  
by Alonzo Austin, Prose  
ALONZO AUSTIN  
1321 River-Carlis Rd.  
Tuskegee, AL 36083  
Ph. # (334) 727-5476

CERTIFICATE OF SERVICE.

I do hereby certify that I have this day Served  
A copy of the foregoing documents Upon

Burr & Forman LLP  
420 North 20<sup>th</sup> Street, Suite 3100  
Birmingham, AL 35203

Wacoria Bane

by depositing same in the U.S. mail, postage  
prepaid on this the 10 day of April 2007

Alonzo Austin, Prose  
by Alonzo Austin, Prose  
ALONZO AUSTIN  
1321 River-Carlis Rd.  
Tuskegee, AL 36083  
Ph. # (334) 727-5476

**SouthTrust Bank**

of Alabama, NA  
P.O. Box 3867  
Auburn, Alabama 36831-3867  
(334) 821-8184  
FAX (334) 887-4490

Ms. Nanalie Andress  
National Bank Examiner  
Customer Assistance Unit  
Controller of the Currency  
Administrator of National Banks  
Washington, DC 20219-0001

RE: Ruth H. Lewis

Dear Ms. Andress:

Reference is made to your letter of March 17, 1998 to Mr. Julian W. Banton, Chairman and CEO, SouthTrust Bank, N.A., Birmingham, Alabama. You had requested a response to a complaint made against SouthTrust Bank of Tuskegee, Alabama in connection with accounts of Ruth H. Lewis. The complaint was actually made by Mr. Alphonso Austin. As I mentioned in my letter of March 26th, 1998, which was faxed to your office on that date, Mr. Banton referred your letter to me for a response, since the bank in Tuskegee was a branch office of our bank in Auburn, Alabama.

As I understand Mr. Austin's letter, his complaint is two-fold. First, he alleges that during the period February 2, 1993 until November 26, 1994, the date of Mrs. Lewis death, the bank either failed or refused to honor a Power of Attorney he was given by Mrs. Lewis. Also, he claims the bank failed to properly issue Form 1099-INT through 1997 for certain interest bearing accounts held by Mrs. Lewis in 1992.

Enclosed herewith is copy of a signature card dated March 4, 1994 whereby an account was opened in the name Juanita K. Upshaw Conservator and Guardian of Ruth H. Lewis. This account was opened by our employee Linda Peoples when Ms. Upshaw presented a document from the Probate Court of Macon County naming her as Guardian and Conservator (Unfortunately, with several transfers of records to central locations, as well as records transfers associated with SouthTrust's sale of the

Exhibit "A"

From the file of Alphonso Austin  
Execution  
for  
Ruth H. Lewis  
Testament

April 3, 1998

Happy Birthday  
I am 52 yrs  
old today

Finally a break through!  
Whew!  
Mrs. Lewis now when do I go from here  
(Rest in peace)  
I'll never give up!!!

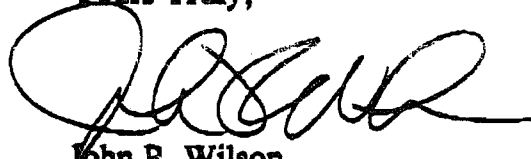
Don't let  
Semi-gram  
Fi  
Always  
Faithful  
We never  
Leave  
behind!!!!

Exhibit "A" 2 of 2

Tuskegee branch in December 1997, we have been unable to locate the bank's copy of the document. However, Ms. Peoples specifically recalls receiving the document.) Even though the Power of Attorney given to Mr. Austin was dated as of February 2, 1993, Ms. Peoples remembers that it was not until after the Guardianship Account was opened that Mr. Austin presented a copy of his Power to the bank. If the bank did fail or refuse to honor this Power, it was because we believed his Power was no longer valid since a guardian had been appointed for Ms. Lewis. With respect to the Forms 1099-INT question, the bank's records, as per the enclosed, reflect that these accounts were all closed at various times during 1992.

We believe Mr. Austin's complaints are without merit. I trust our response herein is sufficient, however if you wish additional information, I will do my best to provide it.

Yours Truly,



John P. Wilson  
CEO/Auburn

JPW/ca



SouthTrust Bank Auburn

Exhibit A

From the file

Adm. of estate

ACCOUNT TITLE: <b>JUANITA K UPSHAW CONSERV &amp; GDN OF RUTH E LEWIS</b>		BR. <b>003</b>	ACCOUNT NUMBER <b>29 953 181</b>	PROD. CODE <b>200</b>
		TAX I.D. <b>424-24-6993</b>		OFFICER NUMBER <b>027</b>
		FIRST DEPOSIT <b>72810.69</b>	DATE OPENED <b>03/04/94</b>	BANK NO. <b>075</b>
ACCOUNT TYPE <input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS	TYPE OF DEPOSITOR <input type="checkbox"/> FIDUCIARY (e.g. EXECUTOR, TRUSTEE, ADMINISTRATOR, GUARDIAN) <input type="checkbox"/> UNINCORPORATED NON-BUSINESS ASSN (e.g. CHURCH, SCHOOL, CHARITABLE ORGANIZATION, ETC.)			
SOURCE OF FUND CODE	WIRE CODE	EMPLOYED BY (FULL NAME OF EMPLOYEE)		
CHECKS WILL BE SIGNED BY ANY _____ OF THE FOLLOWING:		TYPE OR PRINT NAME		
1. <i>Juanita K Upshaw</i>		JUANITA K UPSHAW		
2. _____		_____		
3. _____		_____		
4. _____		_____		
5. _____		_____		
6. _____		_____		
AND COUNTERSIGNED BY ANY _____ OF THE FOLLOWING:		TYPE OR PRINT NAME		
1. _____		_____		
2. _____		_____		
ACCOUNT NUMBER <b>29 953 181</b>		PHONE # <b>205-724-0839</b>		
LOCAL ADDRESS: <b>P O BOX 275</b>		CITY, STATE, ZIP <b>TUSKEGEE, AL 36087</b>		
PRIMARY MAILING ADDRESS <b>BOX 275</b>		CITY, STATE, ZIP <b>TUSKEGEE AL 36087</b>		
<p>The depositor named below hereby agrees to abide by and be bound by the Bank's Rules and Regulations Governing Deposit Accounts and its Schedule of Services and Service Charges, and by all amendments made to either or them from time to time on notice to the depositor. The undersigned acknowledges receipt of a copy of such Rules and Regulations and Schedule of Service Charges as presently in effect. The undersigned confirms that the primary purpose of this account is for personal, family or household purposes, and the undersigned also acknowledges receipt of a copy of the Truth-in-Savings Account Disclosures for this account.</p> <p><b>Certification.</b>—Under penalties of perjury, I certify that:</p> <p>(1) The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and</p> <p>(2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.</p> <p><b>Certification Instructions.</b>—You must cross out item (2) above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. For real estate transactions, item (2) does not apply. For mortgage interest paid, the acquisition or abandonment of secured property, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN.</p>				
DEPOSITOR'S NAME <b>Juanita K Upshaw</b>		TITLE <b>Conserv &amp; GDN</b>		
COMMENTS:				

Exhibit For Testimony Ruth H, Lewis

Obtained from AEB - no actual documents - opening Linda Peoples

Probate Judge:

ALTONZA MENEFEE, Atty. at Law, Biggers Law Firm and FRED Cray Sr. Law firm + partner  
 (1) (Deborah Biggers Atty.)  
 (2) (Allan Nathanson atty.)  
 Ms. Linda Peoples  
 Mr. Wilson (South Trust)  
 George Clay (Embezzlement)  
 Conspirators under the color of State Law!!!